

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

Civil Action No: 1:21-cv-00108

SUNSHINE CHEVROLET, LLC, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
NEW YORK MARINE AND GENERAL )  
INSURANCE COMPANY, PROSIGHT )  
SPECIALTY INSURANCE GROUP, INC., )  
and PROSIGHT GLOBAL, INC., )  
 )  
Defendants. )  
\_\_\_\_\_ )

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants New York Marine And General Insurance Company, Prosight Specialty Insurance Group, Inc., and Prosight Global, Inc., (collectively “Defendants”), hereby give notice of the removal of this action from the General Court of Justice, Superior Court Division, Buncombe County, North Carolina, in which the above-captioned matter is now pending, to the United States District Court for the Western District of North Carolina. In support of this Notice, Defendants state as follows:

**Procedural History**

1. Plaintiff filed its Complaint in the General Court of Justice, Superior Court Division, Buncombe County, North Carolina on or about 17 March 2021. The Plaintiff named New York Marine and General Insurance Company (“Marine”), Prosight Specialty Insurance Group, Inc. (“Prosight”), and Prosight Global Inc. (“Prosight Global”) as Defendants. Defendants received notice of this action via service of a copy of the Summons and Complaint on 22 March 2021. A

copy of all process, pleadings, and orders served on Defendants in State Court are attached hereto as **Exhibit A**, pursuant to 28 U.S.C. § 1446(a).

### **Parties**

2. Plaintiff Sunshine Chevrolet, LLC is a limited liability company organized and existing under the laws of the State of North Carolina with its principal place of business located in North Carolina.

3. Don H. Elliot is the managing member of Plaintiff Sunshine Chevrolet, LLC and is domiciled in Texas.

4. Kristen Elliot is the other member of Plaintiff Sunshine Chevrolet, LLC and is domiciled in North Carolina.

5. Defendant Marine is a corporation organized and existing under the laws of the State of New York with its principal place of business located in Morristown, New Jersey.

6. Defendant Prosight is a corporation organized and existing under the laws of the State of New York with its principal place of business located in Morristown, New Jersey.

7. Defendant Prosight Global is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located in Morristown, New Jersey.

8. Based upon the foregoing, complete diversity exists between Plaintiff (and its members) and all Defendants.

### **Jurisdiction**

9. This case is subject to removal under 28 U.S.C. § 1332 (“Diversity of Citizenship”) because (i) complete diversity of citizenship of the parties exists, and (ii) the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of costs and interest.

10. All Defendants join in and consent to removal of this action to the United States District

Court for the Western District of North Carolina.

**Basis for Removal**

11. This court has subject matter jurisdiction on the basis of diversity of citizenship under 28 U.S.C. § 1332. Venue is proper pursuant to 28 U.S.C. § 1441(a) because this is the federal district court for the district embracing the place where the state court action is pending and the federal district in which the insurance claim at issue in the action was made.

12. This Notice of Removal is filed with the Court within thirty (30) days of Defendants' receipt on 22 March 2021 of a copy of the Complaint, which is the pleading from which Defendant could first ascertain that the case had become subject to removal pursuant to 28 U.S.C. § 1446(b)(3).

13. As required by 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served upon Plaintiff, by and through its attorney of record, and is being filed with the Clerk of Court of the General Court of Justice, Superior Court Division, Buncombe, North Carolina.

WHEREFORE, Defendants give notice that the entire State Court action under No.: 21 CVS 01074, currently pending in the General Court of Justice, Superior Court Division, Buncombe County, North Carolina is removed to this Court for all further proceedings.

This 20<sup>th</sup> day of April, 2021.

Respectfully submitted,

GOLDBERG SEGALLA LLP

/s/ David L. Brown

David L. Brown

N. C. State Bar #: 18942

**GOLDBERG SEGALLA LLP**

701 Green Valley Road, Suite 310

Greensboro, NC 27408

Telephone: 336.419.4900

Facsimile: 336.419.4950

Email: [dbrown@goldbergsegalla.com](mailto:dbrown@goldbergsegalla.com)

*Attorney for Defendants New York Marine  
and General Insurance Company, Prosight  
Specialty Insurance Group, Inc., and  
Prosight Global Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of April, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the registered participants as identified on the Notice of Electronic Filing (NEF).

I hereby further certify that a true and correct copy of the foregoing was served upon the following-named person on the 20<sup>th</sup> day of April, 2021, via regular mail, postage prepaid:

Mr. Stephen J. Grabenstein  
Van Winkle, Buck, Wall, Starnes & Davis, P.A.  
11 North Market Street  
P.O. Box 7376  
Asheville, North Carolina 28802  
*Attorney for Plaintiff*

This 20th day of April, 2021.

GOLDBERG SEGALLA LLP

/s/ David L. Brown

David L. Brown

N. C. State Bar #: 18942

**GOLDBERG SEGALLA LLP**

701 Green Valley Road, Suite 310

Greensboro, NC 27408

Telephone: 336.419.4900

Facsimile: 336.419.4950

Email: [dbrown@goldbergsegalla.com](mailto:dbrown@goldbergsegalla.com)

*Attorney for Defendants New York Marine  
and General Insurance Company, Prosight  
Specialty Insurance Group, Inc., and  
Prosight Global Inc.*